

MDR Tracking Number: M5-04-3184-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on May 24, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. The office visits, therapeutic exercises, functional capacity exam, work related/med disability evaluation service rendered on 6/11/03 through 7/10/03 **were not found to be medically necessary**. The joint mobilization and the electrical stimulation rendered on 6/11/03 through 7/10/03 **were found to be medically necessary**. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On July 17, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	Rationale
12/29/03	99212-QU	\$44.74	\$0.00	No EOB	Neither the requestor nor the respondent submitted copies of EOBs, however the requestor submitted convincing evidence of the carrier's receipt of the disputed service. Therefore, the disputed service will be reviewed according to the Medicare Fee Schedule. The requestor is entitled to reimbursement in the amount of \$44.74.
1/5/04	99455-V5-WP-QU	\$443.78	\$0.00	V	In accordance with Rule 134.202 (e)(6)(C)(i), the commission has jurisdiction in this matter. The disputed charge will be reviewed according to the rule noted above. The requestor did not submit relevant information to support delivery of service. Therefore, reimbursement is not recommended for the disputed charge.
TOTAL		\$488.52	\$0.00		Reimbursement is recommended in the amount of \$44.74.

## **ORDER**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 6/11/03 through 7/10/03 and 12/29/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 1<sup>st</sup> day of November 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division

### **Amended Report**

September 7, 2004

David Martinez  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-04-3184-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the

reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

## CLINICAL HISTORY

This patient is a 42 year old male laborer who, on \_\_\_\_, sustained a complex interarticular and comminuted distal tibial fracture when he fell from scaffolding. He underwent surgical repair on 6-09-2001, including screw placement, and began post-operative physical therapy. Eventually, he returned to work full-duty for a full 8 months. However, on 8-01-2002, he obtained a change of treating doctors and resumed active care with a doctor of chiropractic. The records reflect that an arthroscopic procedure was subsequently performed on 2-12-2003, followed by additional post-operative physical therapy. Finally on 5-28-2003, another arthroscopic procedure (a “Tibial HWR”) was performed, followed by additional post-operative physical therapy.

## DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of the following from 6-11-2003 to 1-05-2004 except 12-29-2003: office visits, joint mobilization, electrical stimulation, therapeutic exercises and a functional capacity exam.

## DECISION

The reviewer disagrees with the previous adverse determination regarding joint mobilizations and attended electrical stimulations from 6-11-2003 through 7-10-2003. The reviewer agrees with the previous adverse determination regarding all remaining services and procedures.

## BASIS FOR THE DECISION

Physical medicine is an accepted part of a rehabilitation program following surgery. However, for medical necessity to be established there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (B) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (C) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment.

Although an administrative law judge found on 5-24-2004 that the patient had actually worsened during this doctor’s care from 4-09-2003 through 5-07-2003, and subsequently determined that

the care was medically unnecessary during that time frame, the records adequately establish that yet another surgical procedure was performed on 5-28-2003. According to records submitted, the

surgeon saw this patient two days post operatively and ordered 4 weeks of physical therapy to include passive range of motion and electrical stimulation. As such these procedures were approved from 6/11/03 through 7/10/03. However, no orders were given to include an active, supervised, outpatient therapeutic exercise regimen- on the contrary the records show that the surgeon recommended the continuance of a home exercise program. Therefore, the therapeutic exercises are determined to be medically unnecessary.

In terms of office visits (99213), the medical necessity of performing an extended problem focused evaluation and management service on each visit was not supported by the diagnosis. Insofar as the FCE (97750-FC) was concerned, this was determined to be medically unnecessary on the basis that the patient had already returned to full duty months beforehand.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,